

A RESOLUTION

15-441

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend the District of Columbia Administrative Procedure Act to bring the District's Freedom of Information Act into greater conformity with the federal Freedom of Information Act, to clarify that the Freedom of Information Act's law enforcement and investigatory records exemption applies equally to the Council of the District of Columbia's investigatory proceedings, to clarify that the inter-agency memorandum exemption applies to Council records, to provide that the Council may assert exemptions on behalf of public bodies from which it receives information, and that final decisions of the Council may not be appealed to the Mayor.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Freedom of Information Legislative Records Clarification Congressional Review Emergency Declaration Resolution of 2004".

Sec. 2. (a) The District of Columbia Freedom of Information Act ("FOIA"), enacted in 1977, was modeled after the federal Freedom of Information Act. Both local and federal courts have relied on interpretations of the federal law to interpret the local FOIA law. In 1986, the federal FOIA exemptions governing law enforcement and investigatory records were changed. Freedom of Information Reform Act of 1986, approved October 27, 1986 (Pub. L. No. 99-570; 100 Stat. 3207). None of these federal changes affecting FOIA exemptions had been incorporated into the D.C. FOIA.

(b) The Freedom of Information Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-283; 48 DCR 1917), amended the D.C. FOIA to provide for disclosure of records in electronic format, to extend coverage to the Council and private contractors performing public functions, to provide disclosure requirements for partially released documents, to clarify categories of information that do not require a written request for information, to provide penalties for arbitrary or capricious violations of the act, to revise the annual reporting requirements, and to provide a training requirement for Freedom of Information Officers. The

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Freedom of Information Amendment Act of 2000 did not revise the exemptions in section 204(a), which were revised in federal law in 1986.

(c) One example where changes were made in the federal law and not in the D.C. FOIA is that under the current D.C. FOIA law, records may be withheld if doing so would endanger the life of law enforcement personnel. The corresponding federal provision provides that records may be withheld if doing so would endanger the life of *any person*.

(d) The core exemptions in the D.C. FOIA had not been amended since the law was enacted in 1977. The exemptions specifically were not amended in 2001, when the Council was made subject to FOIA. The Council is currently involved in a number of sensitive investigations, some of which require the cooperation of witnesses who do not want their identities disclosed. Premature release of records could have a damaging or disrupting effect on investigations and discourage cooperation with the Council's investigations.

(e) In October 2003, the Council enacted the Freedom of Information Legislative Records Clarification Emergency Amendment Act of 2003, effective October 24, 2003 (D.C. Act 15-190; 50 DCR 9499) ("Emergency Act"), which clarified and strengthened protection of records and information related to Council investigations. The Emergency Act expired on January 22, 2004.

(f) Temporary legislation, the Freedom of Information Legislative Records Clarification Temporary Amendment Act of 2003, signed by the Mayor on November 25, 2003 (D.C. Act 15-248; 50 DCR 10948), was transmitted to Congress on January 13, 2004, for the 30-day review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and is not projected to become law until March 2, 2004.

(g) It is important that the provisions of the Emergency Act continue in effect, without interruption, until the temporary legislation is in effect.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Freedom of Information Legislative Records Clarification Congressional Review Emergency Amendment Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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A RESOLUTION

15-442

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency, due to Congressional review, with respect to the need to change the interest rate for calculating the minimum nonforfeiture amount for life insurance annuities from 3% to 1.5% to make the interest rate for cash surrender benefits compatible with the current low interest rate environment.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Standard Valuation Congressional Review Emergency Declaration Resolution of 2004".

Sec. 2. (a) On December 23, 2002 the Standard Valuation and Nonforfeiture Emergency Amendment Act of 2002 was passed by the Council because there existed an immediate need to change the interest rate for calculating the minimum nonforfeiture amount for life insurance annuities from 3% to 1.5% because the 3% interest rate guarantee required for cash surrender benefits is incompatible with today's low interest rate environment. The 3% "floor" for life insurance annuities in the current law was adopted in December 1976 and had not been amended since its adoption. In 1976, the interest rate for 5-year Treasury bonds was between 7 and 7.5%. Prior to 1976, the market for life insurance annuities was small; few states even had a nonforfeiture law applicable to life insurance annuities, and those states generally provided an interest rate for calculating the minimum nonforfeiture amount of less than 3%.

(b) The change that is proposed in this emergency legislation was adopted by the National Association of Insurance Commissioners ("NAIC") on February 9, 2002. The NAIC adopted this change with the understanding that the 3% minimum rate is now incompatible with the current interest rate environment that may extend for a protracted time. A temporary minimum rate reduction is sought while a permanent solution is developed. The NAIC recommends lowering the interest rate for a determined amount of time and suggested that a sunset date of July 1, 2004, would be appropriate. The permanent version of this legislation will be introduced and will include this sunset date.

(c) Accordingly, it was necessary that the Council adopt this legislation on an emergency basis to account for the changes in the Treasury rates and to ensure that the option of investing in annuities can still be made available to District of Columbia residents.

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(d) Subsequently, the Standard Valuation and Nonforfeiture Temporary Amendment Act of 2002 was passed on 2nd reading by the Council on January 7, 2003 and became law on March 31, 2003. Emergency legislation was needed to cover the gap between the original emergency act and the enactment of the temporary bill. Unfortunately, the temporary legislation expired on November 13, 2003, leaving a gap in the law due to Congressional review of the permanent law. Consequently, it was necessary to pass the Second Standard Valuation Congressional Review Emergency Amendment Act of 2003 to avoid the gap in the law.

(e) Now the Council is faced with another gap in the law. On January 22, 2004, the Congressional review emergency legislation expired. The permanent law is not projected to become effective until the middle of February 2004. Consequently, it is necessary to pass another Congressional review emergency bill to ensure to avoid the gap in the law.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Standard Valuation Congressional Review Emergency Amendment Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

A RESOLUTION

15-443

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency, due to Congressional review, with respect to the need to prohibit the parking and loading of tour buses on Eastern Avenue, NE, between Riggs Road, NE, and Kennedy Street, NE.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Eastern Avenue Tour Bus Parking Congressional Review Emergency Declaration Resolution of 2004".

Sec. 2. (a) For the health, safety, and quality of life of the residents in the Eastern Avenue area, there exists an ongoing need to prohibit tour buses from parking on Eastern Avenue.

(b) The Eastern Avenue Tour Bus No Parking Regulation Amendment Act of 2003, as introduced on January 24, 2003 (Bill 15-87), has been referred to the Committee on Public Works and the Environment. The permanent bill has not yet been the subject of a Committee public hearing or roundtable.

(c) In October 2003, the Council enacted the Eastern Avenue Tour Bus Parking Emergency Amendment Act of 2003, effective October 24, 2003 (D.C. Act 15-194; 50 DCR 9516) ("Emergency Act"), to regulate the parking of tour buses adjacent to the residential community on Eastern Avenue. The Emergency Act expired on January 22, 2004.

(d) Temporary legislation, the Eastern Avenue Tour Bus Parking Temporary Amendment Act of 2003, signed by the Mayor on November 25, 2003 (D.C. Act 15-247; 50 DCR 10946), was transmitted to Congress on January 13, 2004, for the 30-day review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and is not projected to become law until March 2, 2004.

(e) It is important that the provisions of the Emergency Act continue in effect, without interruption, until the temporary legislation is in effect, for without it there will be no regulation to control the parking of tour buses.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Eastern Avenue Tour Bus Parking Congressional Review Emergency Amendment Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

A RESOLUTION

15-444

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend section 47-1803.02 of the D.C. Official Code to provide that the exclusion from gross income applies to amounts received by a claimant from any type of discrimination.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Income From Discrimination Exclusion Congressional Review Emergency Declaration Resolution of 2004".

Sec. 2. (a) In October 2003, the Council enacted the Income From Discrimination Exclusion Emergency Amendment Act of 2003, effective October 24, 2003 (D.C. Act 15-195; 50 DCR 9518) ("Emergency Act"), which amends the Civil Rights Tax Fairness Act of 2002 to exclude from the computation of District gross income the amount received from lawsuits or settlements involving unlawful discrimination in general, and not strictly employment discrimination. The Emergency Act expired on January 22, 2004.

(b) Temporary legislation, the Income From Discrimination Exclusion Temporary Amendment Act of 2003, signed by the Mayor on November 25, 2003 (D.C. Act 15-251; 50 DCR 10968), and permanent legislation, section 107 of the Technical Amendments Act of 2003, signed by the Mayor on January 6, 2004 (D.C. Act 15-291; 51 DCR 881), were transmitted to Congress for the 30-day review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and are not projected to become law until March 2, 2004 and March 8, 2004, respectively.

(c) To ensure that this clarifying amendment does not lapse, it is important that the provisions of the Emergency Act continue in effect, without interruption, until the temporary legislation is in effect.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Income From Discrimination Exclusion Congressional Review Emergency Amendment Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

A RESOLUTION

15-445

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency, due to Congressional review, with respect to the need to approve a modification to the Rehabilitation Services Program to assist individuals with disabilities in achieving gainful employment, and to authorize the Mayor to establish an economic needs test to be used in determining the ability of applicants for and recipients of vocational rehabilitation services to contribute to payment of the costs of the vocational rehabilitation services.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Rehabilitation Services Program Establishment Congressional Review Emergency Declaration Resolution of 2004".

Sec. 2. (a) There exists an immediate crisis in the District of Columbia because of the failure to establish a rehabilitation services program and the need to authorize the Mayor to establish an economic needs test to be used in determining the ability of applicants for and recipients of vocational rehabilitation services to contribute to payment of the costs of vocational rehabilitation services.

(b) Currently, the Department of Human Services Rehabilitation Services Administration ("RSA") provides vocational rehabilitation services in accordance with the requirements of the federal Rehabilitation Act of 1973 ("Act"). RSA has used the Act's regulations and program instructions to implement services. Since a rehabilitation services program has not been established as a District of Columbia government entity, the RSA is unable to implement any of the optional provisions of the Act or to issue rules to implement discretionary provisions of the Act.

(c) In seeking to serve the needs of all District of Columbia residents who require vocational rehabilitation services, RSA has implemented an economic needs test, which is an optional provision of the Act. Recently, advocates who represent customers seeking vocational rehabilitation services have challenged RSA's authority to impose an economic needs test without legislative authority. These advocates believe that each client is entitled to all services and that services should not be limited to what is needed to prepare for, secure, and maintain employment. This interpretation of the Act has had a significant impact on RSA's budget. Under

this interpretation, RSA will be unable to provide services to a large number of eligible individuals with disabilities.

(d) If vocational rehabilitation services cannot be provided to all eligible individuals who apply for services, RSA would be required by federal law to establish an order of priority for services, prioritizing individuals with the most severe disability before other individuals with severe disabilities and non-severe disabilities can receive services. With this order of priority, RSA would be forced to deny vocational rehabilitation services to thousands of individuals with disabilities. An order of priority would have a significant impact on services to multicultural populations whose presenting disability is frequently not categorized as severe. It would also have a significant impact on services to the following populations: individuals with drug- and alcohol-related disabilities; individuals with learning disabilities; individuals with mild mental illness; and individuals with various other disabilities.

(e) If the Rehabilitation Services Program is not established as a District of Columbia government entity and the Mayor is not authorized to establish an economic needs test to be used in determining the ability of applicants and recipients to contribute to payment of the costs of vocational rehabilitation services, the District of Columbia would be forced to establish priorities for its rehabilitation services program, which would jeopardize the health, safety, and welfare of many individuals with disabilities in the District of Columbia.

(f) The Rehabilitation Services Program Establishment Emergency Act of 2003, effective November 25, 2003 (D.C. Act 15-235; 50 DCR 10737), expires on February 13, 2004.

(g) The Rehabilitation Services Program Establishment Temporary Act of 2003, signed by the Mayor on December 18, 2003 (D.C. Act 15-169; 51 DCR 30), is pending Congressional review, with a projected law date of March 3, 2004.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Rehabilitation Services Program Establishment Congressional Review Emergency Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

A RESOLUTION

15-446

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency, due to Congressional review, with respect to the need to amend Chapter 20 of Title 21 of the District of Columbia Official Code to add a definition of "emergency care" to the guardianship law, and to amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 to authorize the Administrator of the Mental Retardation and Developmental Disabilities Administration, or the Administrator's designee, to grant, refuse, or withdraw consent, with certain limitations, on behalf of incapacitated customers, for health care services, treatment, or procedures, upon the certification of 2 licensed physicians.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Citizens with Mental Retardation Substituted Consent for Health Care Decisions Congressional Review Emergency Declaration Resolution of 2004".

Sec. 2. (a) The Citizens with Mental Retardation Substituted Consent for Health Care Decisions Emergency Amendment Act of 2003, effective November 25, 2003 (D.C. Act 15-234; 50 DCR 10734), expires on February 3, 2004.

(b) The Citizens with Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2003, signed by the Mayor on December 18, 2003 (D.C. Act 15-268; 51 DCR 27), is pending Congressional review, with a projected law date of March 3, 2004.

(c) This emergency legislation is necessary to prevent a gap in the legal authority.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Citizens With Mental Retardation Substituted Consent for Health Care Decisions Congressional Review Emergency Amendment Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

A RESOLUTION

15-447

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To disapprove proposed rules to implement the provisions of the Equity in Contracting Amendment Act of 2000.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Revised Privatization Contracts Disapproval Resolution of 2004".

Sec. 2. Pursuant to section 205 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-302.05), the Mayor transmitted to the Council on October 30, 2003 proposed rules (published at 50 DCR 3039) to add a new Chapter 46 of Title 27 of the District of Columbia Municipal Regulations. The Council disapproves the proposed rules.

Sec. 3. The Secretary to the Council shall transmit a copy of this resolution to the Mayor and the Chief Procurement Officer upon its adoption.

Sec. 4. This resolution shall take effect immediately.

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15-448

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency with respect to the need to approve the acceptance and use of grants not included in the ceiling of the District of Columbia Appropriations Act, 2004.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "February Budget Modifications for FY 2004 Grant Funds Emergency Declaration Resolution of 2004".

Sec. 2. (a) Compliance with federal law established by section 417(b)(1)(B) of the District of Columbia Appropriations Act, 2004, approved January 23, 2004 (Pub. L. No. 108-199; 118 Stat. 3), requires Council approval of the acceptance and use of grants not included in the ceiling of the FY 2004 appropriation for the District of Columbia.

(b) Grant requests have been submitted that are not included in the FY2004 appropriations ceiling. These grants must be approved by the Council expeditiously.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the February Budget Modifications for FY 2004 Grant Funds Approval Emergency Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

A RESOLUTION

15-449

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency with respect to the need to allocate through a reprogramming \$8.5 million in state aid received by the District of Columbia for Fiscal Year 2004.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may cited as the "\$8.5 Million State Aid Allocation Through a Reprogramming for Fiscal Year 2004 Emergency Declaration Resolution of 2004".

Sec. 2. (a) During Fiscal Year 2004, the District experienced a major revenue shortfall, which the federal government addressed by giving the District \$8.5 million in state aid.

(b) If the District does not use the state aid by the end of fiscal year 2004, it will lose access to these funds.

(c) It is of vital importance that the state aid be reprogrammed and allocated expeditiously.

Sec. 3. The Council of the District of Columbia finds that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the 8.5 Million State Aid Allocation Through a Reprogramming for Fiscal Year 2004 Emergency Approval Resolution of 2004 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

15-450

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To approve, on an emergency basis, the allocation through a reprogramming of \$8.5 million in state aid received by the District of Columbia for Fiscal Year 2004 from the federal government to address a projected revenue shortfall.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "8.5 Million State Aid Allocation Through a Reprogramming for Fiscal Year 2004 Emergency Approval Resolution of 2004".

Sec. 2. In accordance to Title VI of the Jobs and Growth Tax Relief Reconciliation Act of 2003, approved May 28, 2003 (Pub. Law 108-27; 117 Stat. 752), \$8.5 million shall be reprogrammed and allocated as follows:

(1) An amount of \$2.7 million shall be reprogrammed and allocated to address spending pressures as follows:

- (A) To the Department of Public Works for the Recycling program, \$1.1 million; and
- (B) To the Office of the Chief Financial Officer for legal expenses, \$1.6 million.

(2) An amount of \$5.8 million shall be reprogrammed and allocated to address project priorities as follows:

(A) To the Department of Public Works, \$700,000 of which \$500,000 shall be for graffiti removal and \$200,000 shall be to fund special events and Helping Hands Clean-up overtime;

(B) To the Office of Latino Affairs to fund summer programs, \$400,000;

(C) To the Department of Employment Services, \$2.2 million of which \$1.6 million shall be to restore summer jobs and \$600,000 shall be for the Excel Institute;

(D) To the Office of Human Rights for a Language Access Program, \$300,000;

(E) To the Department of Energy to fund the Municipal Aggregation Program, \$200,000;

(F) To the Center for Workforce Development to restore funding for training, programs, \$1.2 million; and

(G) An amount of \$800,000 shall be allocated to restore duplicate budget cuts, of which \$260,000 shall be for the City Administrator to restore telecommunication savings that

were previously reduced from the agency's budget and a non-personal service procurement reduction that included Disability Compensation, \$140,000 shall be for the Department of Parks and Recreation to restore telecommunication, procurement and fleet savings, and \$400,000 shall be for the Department of Employment Services to restore an administrative cost reduction.

Sec. 3. No funds shall be made available prior to certification by the Chief Financial Officer that funds will be expended for the purposes designated in section 2.

Sec. 4. This resolution shall take effect immediately.

A RESOLUTION

15-451

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency with respect to the need to detail the purpose for the expenditure of fiscal year 2004 reserve funds.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "February Priority Spending Emergency Declaration Resolution of 2004".

Sec. 2. (a) Section 202(j)(3) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 109; D.C. Official Code § 47-392.02(j)(3)), requires the Council to pass legislation prior to the use of the District's reserve funds.

(b) An expenditure of \$66.8 million from the District's reserve funds must be made available immediately to address spending pressures and to provide funding for additional program requirements as follows:

(1) \$5,600,000 shall be for the Department of Mental Health to cover an estimated net revenue reduction due to a higher proportion of patients that are not Medicaid eligible utilizing public community-based core services agencies.

(2) \$700,000 shall be for the Department of Health for a new animal control contract.

(3) \$10,400,000 shall be for the Department of Human Services, of which \$8,000,000 shall be for costs associated with court ordered mandates and \$2,400,000 shall be for costs associated with the Health Insurance Portability and Accountability Act of 1996.

(4) \$6,500,000 shall be for the Public Charter Schools to provide parity, in accordance with the provisions of the Per Pupil Funding Formula, for funds added to the budget of the District of Columbia Public Schools.

(5) \$900,000 shall be for the State Education Office to fund the fiscal year 2003 and fiscal year 2004 student census audits.

(6) \$10,900,000 shall be for the Department of Corrections, of which \$8,400,000 shall be to fund the cost of housing additional inmates at Correctional Treatment Facilities and \$2,500,000 shall be to fund increased costs for off-site medical care for inmates due to the anticipated increase in inmate population.

(7) \$8,800,000 shall be for the Office of the Chief Technology Officer, of which \$2,300,000 shall be for the Department of Human Services' Data Center Management, \$1,100,000 shall be for the Metropolitan Police Department's Data Center Management, \$800,000 shall be for the SHARE Data Center, and \$4,600,000 shall be for District-Wide unbudgeted Microsoft software licensing costs.

(8) \$400,000 shall be for the School Transit Subsidy to cover the cost of a 5%

increase in the number of riders.

(9) \$2,500,000 shall be for the Office of Financial Resource Management, of which \$1,700,000 shall be to cover a 7% increase in the cost of natural gas, and \$800,000 shall be for legal expenses.

(10) \$100,000 shall be for the Office of the Mayor to cover E-Grant compliance with the Federal Financial Management Improvement Act of 1999.

(11) \$2,200,000 shall be for the Office of Property Management to cover the fixed costs of facility management services at the DC General Campus.

(12) \$200,000 shall be for the Department of Public Works to fund special events and Helping Hands Clean-Up overtime.

(13) \$900,000 shall be for the Children Youth Investment Trust for summer programs.

(14) \$1,000,000 shall be for the State Education Office for a local funds match for federal funds received for the Family Literacy Program, as required by the District of Columbia Fiscal Year 2004 Appropriations Act, 2004, approved January 23, 2004 (Pub. Law 108-99; 118 Stat. 3).

(15) \$1,100,000 shall be for Workforce Investment to be disbursed to various agencies to cover pay differential costs associated with Operation Enduring Freedom.

(16) \$9,200,000 to the Department of Mental Health, of which \$400,000 shall be to cover an estimated net revenue reduction due to a higher proportion of patients that are not Medicaid eligible utilizing public community-based core services agencies and \$8,800,000 shall be to cover the costs associated with Medicaid disallowances.

(17) \$400,000 shall be for the Department of Employment Services to restore summer jobs.

(18) \$5,000,000 for the District of Columbia Public Schools for the Teacher Buyout Incentive Program.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the February Priority Spending Emergency Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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A RESOLUTION

15-452

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency with respect to the need to provide that the disclosure of documents by a District of Columbia government agency, official, or employee to the Council in response to a subpoena issued pursuant to the Council's investigative authority shall not constitute a waiver of any privilege that otherwise could be asserted by the District of Columbia to prevent disclosure of the documents in a judicial or administrative proceeding.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Disclosure of Information to the Council Emergency Declaration Resolution of 2004".

Sec. 2. (a) The Council Committee on the Judiciary is currently conducting an investigation into the policies and practices of the Metropolitan Police Department related to demonstrations within the District of Columbia.

(b) As part of its investigation, the Committee on the Judiciary needs to examine documents that the Metropolitan Police Department considers confidential and that are the subject of ongoing litigation in the United States District Court for the District of Columbia. These documents have been subpoenaed by the committee.

(c) The Office of Corporation Counsel is concerned that, if the Metropolitan Police Department discloses these documents to the Committee on the Judiciary, it could be asserted in court that the District of Columbia has waived its law enforcement privilege and would have to disclose the same documents to parties outside of the District of Columbia government.

(d) The Disclosure of Information to the Council Emergency Act of 2004 clarifies that if the Metropolitan Police Department discloses these subpoenaed documents to the Committee on the Judiciary, this action would not constitute a waiver of the District of Columbia's law enforcement privilege.

(e) The Committee on the Judiciary is in the process of completing its investigation over the next several weeks and needs to review some confidential Metropolitan Police Department documents before finalizing the investigation.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Disclosure of Information to the Council Emergency Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

A RESOLUTION

15-453

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency with respect to the need to relieve the financial burdens placed upon District of Columbia government employees who serve in the reserve units of the United States Armed Forces and have been or will be called to active duty as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Emergency Declaration Resolution of 2004".

Sec. 2. (a) On September 14, 2001, President George W. Bush issued a proclamation, "Declaration of National Emergency by Reason of Certain Terrorist Attacks," which declared a national emergency due to the September 11, 2001 terrorist attacks on the World Trade Center in New York and the Pentagon. The resulting military operations were named Operation Enduring Freedom.

(b) On September 14, 2001, in furtherance of the aforementioned proclamation, President George W. Bush issued Executive Order 13223, ordering the Ready Reserve of the Armed Forces to active duty, in addition to providing additional authority to the Department of Defense and the Department of Transportation.

(c) The Operation Enduring Freedom Active Duty Pay Differential Emergency Amendment Act of 2001, effective January 8, 2002 (D.C. Act 14-225; 49 DCR 664), provided for payment of a pay differential for each employee called to active duty as a result of Operation Enduring Freedom. D.C. Act 14-225 specified that the pay differential would be paid for any period following the formal inception of Operation Enduring Freedom during which the employee was carried in a non-pay status, from the time the employee is called to active duty until the employee is released from active duty, or until September 30, 2002, whichever occurred first. D.C. Act 14-225 expired on April 8, 2002.

(d) The Operation Enduring Freedom Active Duty Pay Differential Temporary Amendment Act of 2002, effective April 13, 2002 (D.C. Law 14-113; 49 DCR 1416), provided for continuation of payment of a pay differential for each employee called to active duty as a result of Operation Enduring Freedom. D.C. Law 14-113 specified that the pay differential would be paid for any period following the formal inception of Operation Enduring Freedom during which the employee was carried in a non-pay status, from the time the employee is called to active duty until the employee is released from active duty, or until September 30, 2002, whichever occurred first. D.C. Law 14-113 expired on November 24, 2002.

(e) The Operation Enduring Freedom Active Duty Pay Differential Extension Emergency Amendment Act of 2002, effective October 23, 2002 (D.C. Act 14-498; 49 DCR 9795),

provided for payment of the pay differential for each employee who, as of September 30, 2002, had been called to active duty from reserve units as a result of Operation Enduring Freedom. D.C. Act 14-498 expired on December 30, 2002.

(f) The Operation Enduring Freedom conflict has not ended and, on March 19, 2003, Operation Iraqi Freedom began. Additional employees have been called to active duty as a result. Accordingly, the District of Columbia authorized a pay differential for employees called to active duty for this purpose as well as the continuation of the payment to employees called to active duty after September 30, 2002, through the enactment of Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Emergency Amendment Act of 2003, effective April 16, 2003 (D.C. Act 15-74; 50 DCR 3619), and the Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Temporary Amendment Act of 2003, effective May 19, 2003 (D.C. Law 15-23; 50 DCR 4339). D.C. Law 15-23 expires on March 3, 2004.

(g) This emergency is necessary to prevent a gap in the legal authority.

(h) The enactment of the proposed emergency will continue authority to provide a pay differential in an amount equal to any difference between the employees' basic District of Columbia government pay and their basic military pay.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Emergency Amendment Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency with respect to the need to simplify the administration of the lower-income, long-term homeowner's credit.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Low-Income, Long-Term Homeowner's Protection Clarification Emergency Declaration Resolution of 2004".

Sec. 2. (a) The Housing Act of 2002 (D.C. Law 14-114) included Title IV, the "Low-Income, Long-Term Homeowners Protection" provision, put a 5% cap on rising property tax bills for homeowners who have lived in their homes for at least 7 years and who had a household income lower than 50% of the area median income.

(b) While this title was not funded in the Fiscal Year 2003 budget, it is funded in the Fiscal Year 2004 budget.

(c) The Mayor has suggested changes to make this title easier to administer by allowing the Office of Tax and Revenue to administer the tax credit directly and removing the Mayoral certification process.

(d) As this program will be administered this year, and as forms need to be developed quickly for its administration, the underlying emergency legislation is warranted.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Low-Income, Long Term Homeowner's Protection Clarification Emergency Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

A RESOLUTION

15-455

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency with respect to the need to simplify the administration of the 12% property tax cap, fulfill the Council's intent that property tax bills should not increase by more than 12% per year, and implement the increase in the homestead deduction to the new level of \$38,000.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Owner-Occupant Residential Tax Credit and Homestead Deduction Clarification Emergency Declaration Resolution of 2004".

Sec. 2. (a) The Council approved the Owner-Occupant Residential Tax Credit and Exemption Act of 2004 ("Bill 15-303") on January 21, 2004.

(b) Upon review of Bill 15-303, the Office of the Chief Financial Officer determined that the calculation in the bill did not achieve the Council's intent of preventing property tax bills from increasing more than 12% per year.

(c) There are two main reasons Bill 15-303 did not achieve the Council's objective. First, the formula in Bill 15-303 failed to take into account the distinction between homeowners who have received the benefit of the cap in prior years, as opposed to those who will be receiving the cap for the first time in 2004. Second, because the formula failed to clearly identify that the computations for the current year should be made by using the capped assessment from the prior year, the Council's intent of limiting property tax bills to a 12% increase would not be consistently achieved.

(d) Under the proposed emergency legislation, all eligible residential property owners will receive the benefit of the capped assessment from year to year.

(e) Further, to give immediate legal authority to the Chief Financial Officer to fulfill the Council's intent in making these changes applicable to tax year 2004, and the property tax bills which will be mailed out later in February of this year, the underlying emergency legislation is warranted.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Owner-Occupant Residential Tax Credit and Homestead Deduction Clarification Emergency Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

15-456

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency with respect to the need to de-couple District of Columbia law from depreciation and expense election provisions added to the Internal Revenue Code of 1986 by the Jobs and Growth Tax Relief Reconciliation Act of 2003.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Depreciation Allowance for Small Business De-Coupling from the Internal Revenue Code Emergency Declaration Resolution of 2004".

Sec. 2. (a) The federal Jobs and Growth Tax Relief Reconciliation Act of 2003 increased the amount a small business can deduct for property acquired in the current year from \$25,000 to \$100,000.

(b) At the Committee on Finance and Revenue's January 29th public roundtable on the permanent version of this legislation, the Office of Tax and Revenue testified that "though intended as a business incentive, the new depreciation tax breaks threatened to cost states large amounts of revenue."

(c) In response, the Office of Tax and Revenue further testified that "many states, including Virginia and Maryland, moved quickly to "de-couple" from the federal code – in effect, disallowing the depreciation provisions" and "in the absence of the proposed legislation, there would be a potential loss of \$2.46 million in FY 2004 and \$9.29 million in FY 2004 through FY 2007."

(d) Since this tax policy at the federal level impact the District's tax policy in tax year 2004, the underlying emergency legislation is warranted.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Depreciation Allowance for Small Business De-Coupling from the Internal Revenue Code Emergency Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

15-457

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency with respect to the need to allow work to continue to upgrade the underground utility infrastructure in Georgetown.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Georgetown Project Emergency Declaration Resolution of 2004".

Sec. 2. (a) In 2000 and 2001, there were numerous manhole cover explosions and fires along M Street in Georgetown, including several which could have caused serious injuries, as flames shot up several feet into the air, windows were shattered, and manhole covers went flying. These underground explosions and fires have been attributed to the aged infrastructure of the utilities in Georgetown, which infrastructure is obsolete.

(b) To address these problems, the public utility companies, including the Potomac Electric Power Company, the Washington Gas Light Company, Verizon of Washington, D.C., and the District of Columbia Water and Sewer Authority came together with the District of Columbia Department of Public Works and entered into an agreement to work together to rehabilitate, upgrade and improve utility infrastructure, roadways, sidewalks and landscaping adjacent to the Georgetown Business District, which is geographically defined as the commercial properties along M Street, N.W., between 28th Street, N.W., and Key Bridge and along Wisconsin Avenue, N.W., between K Street, N.W., and S Street, N.W. This project is referred to as the "Georgetown Project."

(c) It is vital to the public health, safety, and welfare of the residents of the District of Columbia that the underground utility infrastructure in Georgetown be upgraded as quickly as possible. A decision was made to perform the Georgetown Project work at night to minimize the impact on vehicular and pedestrian traffic, workers and residents who frequent Georgetown during the daytime, and commerce in Georgetown, and to maximize the hours available for construction and utility work and expedite completion of the project in the shortest possible time period. Performing the work during the daytime would cause major traffic disruptions, severely hurt businesses in Georgetown, have a negative financial impact on the city, and increase the costs and time period for completing the project.

ENROLLED ORIGINAL

(d) Although contractors working on the Georgetown Project are contractually obligated to utilize best available technology and implement best practices to alleviate the noise, they cannot meet the maximum permissible noise levels for nighttime construction of 60 decibels in a commercial light manufacturing zone or 55 decibels in a waterfront zone.

(e) The proposed emergency legislation will exempt the Georgetown Project from the noise limitations in the District of Columbia Noise Control Act of 1977.

(f) In addition, pursuant to the District of Columbia Construction Codes, the code official cannot issue a permit to perform work after-hours within 500 feet of a residential zone unless failure to issue the after-hours permit would pose a threat to the public safety, health, and welfare. The proposed emergency legislation will exempt the Georgetown Project from the limitations on after-hours work and any potential challenges to the issuance of an after-hours permit.

(g) D.C. Law 15-014, the Georgetown Project Temporary Amendment Act of 2003, will expire on February 1, 2004. The permanent legislation has not yet been marked up. It is imperative that this legislation is passed to ensure the continued progress of the Georgetown Project.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Georgetown Project Emergency Amendment Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

A RESOLUTION

15-458

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 3, 2004

To declare the existence of an emergency with respect to need to transfer the functions of the Department of Banking and Financial Institutions into the Department of Insurance and Securities Regulation and to rename the Department of Insurance and Securities Regulation as the Department of Insurance, Securities, and Banking

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Consolidation of Financial Services Emergency Declaration Resolution of 2004".

Sec. 2. (a) There exists an immediate need to amend the 21st Century Financial Modernization Act of 2000, the International Banking Act of 2000, and the Department of Insurance and Securities Regulation Establishment Act of 1996 to transfer the functions of the Department of Banking and Financial Institutions into the Department of Insurance and Securities Regulation and create one executive agency to handle all issues before the District government relating to financial industries.

(b) On January 6, 2004 the Council approved the Consolidation of Financial Services Amendment Act of 2004, on 1st reading. On February 3, 2004 the Council will vote on, and likely pass, on 2nd reading the same bill. Due to the fact that this bill transfers the functions of one executive agency to another executive agency, it is important for the transfer to be done as quickly as possible. This is important because the allocation of funds to various agencies for the Fiscal Year 2005 is taking place within the next month. If the transfer is completed during the February 3, 2004 legislative session, the budget office can plan accordingly to ensure that the appropriate funds are placed in the correct accounts.

(c) Accordingly, it is necessary that the Council adopt this legislation on an emergency basis to enable to the Mayor to allocate all the necessary budgetary funding that is necessary to best facilitate the transfer of the agency.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Consolidation of Financial Services Emergency Amendment Act of 2004 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.